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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,628	05/31/2001	Keiichi Takanashi	2001-0689A	7179

513 7590 01/13/2003

WENDEROTH, LIND & PONACK, L.L.P.  
2033 K STREET N. W.  
SUITE 800  
WASHINGTON, DC 20006-1021

EXAMINER

SONG, MATTHEW J

ART UNIT PAPER NUMBER

1765

DATE MAILED: 01/13/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/867,628

Applicant(s)

TAKANASHI ET AL.

Examiner

Matthew J Song

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1765

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): 112 First Paragraph.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

## Advisory Action

### *Response to Arguments*

1. Applicant's arguments filed 1/2/2003 have been fully considered but they are not persuasive.

The 112 first paragraph rejection has been withdrawn.

The 112 second paragraph rejection has been maintained.

In regards to applicant's argument the phrase "certain criteria" is not indefinite.

Applicant's argument contends the phrase "certain criteria" in light of the specification the term "certain criteria" is clearly defined. In light of the specification the phrase "certain criteria" is defined. But the definition of "certain criteria" in the specification is indefinite. In paragraphs [0033] and [0059], the term "certain criteria" is defined as

: the upper and lower limits of the crystal diameter are within the range of  $\pm 2$  mm to a desired diameter of the main body

:the upper and lower limits of the level position are within the range of  $\pm 5$ mm to the initial level position.

:the lower limit of the distance between the single crystal and the reference reflector is 22 mm, and

:the upper and lower limits of the crucible rotational speed are within the range of  $\pm 10$ rpm to the crucible rotational speed at an early stage of forming the main body.

The use of tolerances to define certain criteria is definite. But the indefiniteness arises because the initial value in relation to the tolerance is not defined in the specification. The diameter of the main body, the initial level position and the crucible rotation speed at an early stage of forming the main body is not defined in the specification. The application of the

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tolerances cannot be applied without the definition of the initial values, which the tolerances are based upon.


2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Song whose telephone number is 703-305-4953. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin L Utech can be reached on 703-308-3868. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Matthew J Song  
Examiner  
Art Unit 1765

MJS  
January 10, 2003

  
BENJAMIN L. UTECH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700